

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

**COMMAND AUDIT OF THE
SANTA FE SPRINGS AREA**



FINAL REPORT

JULY 6, 2010

M e m o r a n d u m

Date: July 6, 2010

To: Office of the Commissioner

Attention: Commissioner J. A. Farrow

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Office of Inspector General

File No.: 005.9968.A13471.010

Subject: FINAL 2009 COMMAND AUDIT REPORT OF THE SANTA FE SPRINGS
AREA

In accordance with the Institute of Internal Auditors, *International Standards for the Professional Practice of Internal Auditing* §2440, issued by the Institute of Internal Auditors, Government Code §13887(a)(2), and the California Highway Patrol Audit Charter, I am issuing the 2009 Command Audit Report of the Santa Fe Springs Area. The audit focused on the command's Driving Under the Influence and Asset Forfeiture Programs.

The audit revealed the command has adequate operations. However, some issues were observed. This report presents suggestions for management to improve on some of its operations. In doing so, operations would be strengthened and the command would ensure it is operating in compliance with policies and procedures. We have included our specific findings, recommendations, and other pertinent information in the report. The Santa Fe Springs Area agreed with all of the findings and plans to take corrective action to improve its operations.

The Santa Fe Springs Area will be required to provide a 30 day, 60 day, six month, and one year response on its corrective action plan implementation. If identified issues are resolved and addressed during any phase of the above reporting period, no future action is required on their behalf. Also, the Office of Inspector General plans on conducting a follow-up review within one year from the date of the final report.

Additionally, in accordance with the *International Standards for the Professional Practice of Internal Auditing* and Government Code §13887(a)(2), this report, the response, and any follow-up documentation is intended for the Office of the Commissioner; Office of the Assistant Commissioner, Field; Office of Inspector General; Office of Legal Affairs; Southern Division; and the Santa Fe Springs Area. Please note this report restriction is not meant to limit distribution of the report, which is a matter of public record pursuant to Government Code §6250 et seq.

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Furthermore, in accordance with the Governor's Executive Order S-20-09 to increase government transparency, the final audit report, including the response to the draft audit report, will be posted on the CHP's internet website, and on the Office of the Governor's webpage, located on the State's Government website.

The Office of Inspector General would like to thank the Santa Fe Springs Area's management and staff for their cooperation during the audit. If you need further information, please contact Captain Ernie Sanchez at (916) 843-3160.

A handwritten signature in black ink, appearing to read "M. C. A. Santiago".

M. C. A. SANTIAGO, CIG, CLEA
Deputy Commissioner

cc: Office of the Assistant Commissioner, Field
Southern Division
Santa Fe Springs Area
Office of Legal Affairs
Office of Inspector General, Audits Unit

BUSINESS, TRANSPORTATION AND HOUSING AGENCY

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

COMMAND AUDIT OF THE SANTA FE SPRINGS AREA

OFFICE OF INSPECTOR GENERAL, AUDITS UNIT

JULY 6, 2010

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EXECUTIVE SUMMARY

The Commissioner has the responsibility, by statute, to enforce laws regulating the operation of vehicles and use of highways in the State of California and to provide the highest level of safety, service, and security to the people of California. Consistent with the California Highway Patrol's (CHP) 2009 Audit Plan, the Office of the Commissioner directed the Office of Inspector General (OIG), Audits Unit, to perform an audit of the Santa Fe Springs Area.

The CHP's 2008-2010 Strategic Plan highlights the mission statement which includes five broad strategic goals designed to guide the CHP's direction. One strategic goal is to continuously look for ways to improve the efficiency and/or effectiveness of departmental operations.

This audit is being conducted to determine whether the Santa Fe Springs Area has complied with the departmental operational policies and procedures regarding the Driving Under the Influence (DUI) Cost Recovery and Asset Forfeiture Programs.

The audit period was July 1, 2008 to September 30, 2009. For the DUI Cost Recovery Program, primary testing was performed on activity conducted during the period of April 1, 2009 through September 30, 2009. During this period, the audit population consisted of 96 DUI Cost Recovery cases. For the Asset Forfeiture Program, testing covered the audit period of July 1, 2008 through September 30, 2009. The audit population consisted of three Asset Forfeiture cases. These testing periods were selected to provide a current evaluation of the command and to avoid duplicating the prior audit period.

Due to the small number of Asset Forfeiture cases, all three cases during the audit period were examined. For the DUI Cost Recovery Program, a statistically-valid random sample at a 95 percent confidence level +/- 5 percent error rate was utilized. This resulted in a sample size of 38 (40 percent) DUI Cost Recovery cases to be examined out of the total population of 96 cases. The audit field work was conducted from November 2-5, 2009.

The audit included a review of existing policies and procedures, as well as, examining and testing the selected cases within the respective populations to determine compliance with established policies and procedures and good business practices. This audit will provide managers with reasonable, but not absolute, assurance whether departmental operations are being properly executed by the command in these two topical areas.

Note – For this audit, a follow-up review of the DUI Cost Recovery Program findings or any other findings from the 2008 audit was not conducted. A follow-up review will be conducted separately in 2010.


Based on the review of the Santa Fe Springs Area's operations, this audit revealed the Santa Fe Springs Area has complied with most operational policies. However, some issues were observed. The following is a summary of the identified issues:

DUI Cost Recovery Program

- The command did not always prepare a CHP 735 – Incident Response Reimbursement Statement for all its eligible cases.
- The command did not always properly complete their CHP 735 forms with the required cost recovery information.
- The command did not always submit DUI Cost Recovery Program billing packages to Fiscal Management Section in a timely manner.
- The command did not always properly complete its CHP 415, Daily Field Records.
- The command's DUI Cost Recovery Program log did not include all data fields required by CHP policy.

Asset Forfeiture Program

- The Commander did not always properly complete its review process of Asset Forfeiture related documents.
- The command did not complete required CHP forms and follow CHP policy when Asset Forfeiture cases were turned over to an allied agency.
- The command did not always prepare and submit required Asset Forfeiture reports and forms in a timely manner.
- The command did not always properly handle and safeguard currency seized from an Asset Forfeiture case.
- The command's Asset Forfeiture Coordinator did not receive annual training.



Please refer to the Findings and Recommendations section for detailed information.

AUDIT REPORT

INTRODUCTION

To ensure the California Highway Patrol's (CHP) operation is efficient and/or effective and internal controls are in place and operational, the Office of the Commissioner directed the Office of Inspector General, Audits Unit, to perform an audit of the Santa Fe Springs Area.

The CHP's 2008-2010 Strategic Plan highlights the mission statement which includes five broad strategic goals designed to guide the CHP's direction. One strategic goal is to continuously look for ways to improve the efficiency and/or effectiveness of departmental operations. This audit will assist the CHP in meeting its goal.

OBJECTIVES AND SCOPE

The objective of the audit is to determine if the command has complied with operational policies and procedures regarding the Driving Under the Influence (DUI) Cost Recovery and Asset Forfeiture programs that provide managers with reasonable, but not absolute, assurance departmental operations are being properly executed.

The audit period was July 1, 2008 to September 30, 2009. For the DUI Cost Recovery Program, primary testing was performed on activity conducted during the period of April 1, 2009 through September 30, 2009. During this period, the audit population consisted of 96 DUI Cost Recovery cases. For the Asset Forfeiture Program, testing covered the audit period of July 1, 2008 through September 30, 2009. The audit population consisted of three Asset Forfeiture cases. These testing periods were selected to provide a current evaluation of the command and to avoid duplicating the prior audit's audit period. This audit included a review of existing policies and procedures, as well as, examining and testing recorded transactions to determine compliance with established policies, procedures, and good business practices. The audit field work was conducted from November 2-5, 2009.

METHODOLOGY

Due to the small number of Asset Forfeiture cases, all three cases during the audit period were examined. For the DUI Cost Recovery Program, a statistically-valid random sample at a 95 percent confidence level +/- 5 percent error rate was utilized. This resulted in a sample size of 38 (40 percent) DUI Cost Recovery cases to be examined out of the total population of 96 cases. The audit field work was conducted from November 2-5, 2009.

The audit included a review of existing policies and procedures, as well as, examining and testing the selected cases within the respective populations to determine compliance with established policies and procedures and good business practices. This audit will provide managers with reasonable, but not absolute, assurance whether departmental operations are being properly executed by the command in these two topical areas.

Note – For this audit, a follow-up review of the DUI Cost Recovery Program findings or any other findings from the 2008 audit was not conducted. A follow-up review will be conducted separately in 2010.

OVERVIEW

DUI Cost Recovery Program: The command complied with state laws and most departmental policies and has adequate internal controls regarding their DUI Cost Recovery Program. However, the command did not always prepare a CHP 735, Incident Response Reimbursement Statement, for all eligible cases. The command did not always properly complete CHP 735 forms with the required cost recovery information. The command did not always submit DUI Cost Recovery billing packages to Fiscal Management Section in a timely manner. The command did not always properly complete their CHP 415, Daily Field Record, forms. The command's DUI Cost Recovery Program log did not include all data fields required by CHP policy.

Asset Forfeiture Program: The command complied with most state laws and departmental policies and has adequate internal controls regarding their Asset Forfeiture Program. However, the Commander did not always properly complete its review process of Asset Forfeiture related documents. The command did not complete required CHP forms and follow CHP policy when Asset Forfeiture cases were turned over to an allied agency. The command did not always prepare and submit required Asset Forfeiture reports and forms in a timely manner. The command did not always properly handle and safeguard currency seized from an Asset Forfeiture case. The command's Asset Forfeiture Coordinator did not receive annual training.

This audit revealed the command has adequate operations, nevertheless, issues were discovered, which if left unchecked could have a negative impact on the command and CHP operations. These issues should be addressed by management to maintain the command's compliance with appropriate laws, regulations, policies, and procedures. The issues and appropriate recommendations are presented in this report.

As a result of changing conditions and the degree of compliance with policies and procedures, the efficiency and effectiveness of operations change over time. Specific limitations may hinder the efficiency and effectiveness of an otherwise adequate operation and include, but are not limited to, resource constraints, faulty judgments, unintentional errors, circumvention by collusion, fraud, and management overrides. Establishing compliant and safe operations and sound internal controls would prevent or reduce these limitations; moreover, an audit may not always detect these limitations.

FINDINGS AND RECOMMENDATIONS

DRIVING UNDER THE INFLUENCE (DUI) COST RECOVERY PROGRAM

FINDING 1: **The command did not always prepare a CHP 735, Incident Response Reimbursement Statement for all of eligible cases.**

Condition: The auditor was provided a report from the Santa Fe Springs Area that documented 815 DUI arrests during the period of April 1, 2009 to September 30, 2009. Of the 815 DUI arrests, 96 cases (12 percent) resulted in the preparation of a CHP 735, Incident Response Reimbursement Statement. Using the detailed DUI arrest report provided, 24 unbilled DUI cases from August 2009 were judgmentally selected and examined to determine if these cases should have been billed.

Of the 24 cases examined, seven (30 percent) cases should have been billed under the DUI Cost Recovery Program as they met the program criteria:

- 1) The defendant was arrested under California Vehicle Code (CVC) 23152 or 23153,
- 2) The defendant had a supporting Blood Alcohol Concentration (BAC) result, and
- 3) The defendant caused a response to an incident.

Criteria: Highway Patrol Manual (HPM) 11.1, Administrative Procedures Manual, Chapter 20, DUI Cost Recovery Program, paragraph 4.a. states:

“a. Local Procedures. Area offices shall develop local procedures to ensure that a CHP 735, Incident Response Reimbursement Statement, is prepared for each arrest that meets the cost recovery criteria (refer to Annex A).”

HPM 11.1, Administrative Procedures Manual, Chapter 20, DUI Cost Recovery Program, paragraph 3.b. through 3.d. states:

“b. Cost Recovery Criteria. The Department will seek to recover DUI incident-related costs for alcohol or a combination of alcohol and drugs provided all the following apply:

- (1) An arrest was made for a violation of California Vehicle Code (CVC) Sections 23152, 23153, or a greater offense involving alcohol and/or drugs.

(2) The arrested party was determined by the investigating officer to have caused a response to an incident.

c. In addition to the above criteria, one of the following must also apply to bill upon arrest:

(1) A supporting evidential (Preliminary Alcohol Screening is insufficient) test with a Blood Alcohol Concentration (BAC) result of at least .08% or greater (breath tests must have two readings of at least .08%);

(2) A commercial driver while driving a commercial vehicle has a supporting evidential test with a BAC result of at least .04% or greater.

d. In addition to the above criteria in b.(1) and (2), a conviction for CVC Sections 23152, 23153, or greater offense is required when one of the following applies:

(1) A BAC test returns under .08%.

(2) A chemical test is positive for drugs only.

(3) There is no supporting BAC test or drug test (i.e., a refusal)."

Recommendation: The command should designate a supervisor as the command's DUI Cost Recovery Coordinator. One of the duties should be the monthly reconciliation of DUI arrests with CHP 735 forms to ensure all eligible cases are billed.

FINDING 2: **The command did not always properly complete their CHP 735 forms with the required cost recovery information.**

Condition: From April 1, 2009 to September 30, 2009, the command generated 96 CHP 735 forms. The auditor selected a statistically-valid sample of 38 (40 percent) CHP 735 forms for review. Based on the review of CHP 735 forms, the following issues were observed:

A. Thirty-three of the 38 cases reviewed were sent to FMS. On all 33 (100 percent) CHP 735 forms, the date sent to FMS was not recorded on the Area's CHP 735 forms. Five cases selected for review were pending a conviction.

B. Ten (26 percent) CHP 735 forms were signed prior to the BAC results date. The BAC received date and results were handwritten on the CHP 735 after it was signed.

C. Five (13 percent) CHP 735 forms used an incorrect hourly billing rate.

D. Three (eight percent) CHP 735 forms did not record the court case number.

E. One (three percent) CHP 735 form had both Section A and Section B criteria selected.

Criteria:

HPM 11.1, Administrative Procedures Manual, Chapter 20, DUI Cost Recovery Program, paragraph 4.b., 4.d., 4.h., and 4.i. states:

“b. Completion of CHP 735, Incident Response Reimbursement Statement. The cost recovery criterion is separated into two separate sections on the CHP 735, Incident Response Reimbursement Statement: Section A or Section B. Section A shall be completed when the billing is based on arrest. Section B shall be completed when the billing is based on conviction. Forward only those forms which meet ALL the criteria in either Section A or Section B; only one section shall be completed per case.

(1) Completed CHP 735s, Incident Response Reimbursement Statements, based on Section A (refer to Annex B) shall be forwarded to Fiscal Management Section (FMS), Reimbursable Services Unit, within ten business days of one of the following dates:

- (a) The date BAC results of .08% or greater are received.
- (b) The date BAC results of .04% or greater are received for a commercial driver.

(2) Completed CHP 735s, Incident Response Reimbursement Statements, based on Section B (refer to Annex C) shall be forwarded to FMS, Reimbursable Services Unit, within ten business days of the notification of a conviction of CVC Sections 23152, 23153, or greater offense as a result of one of the following:

- (a) In the case of a refusal.
- (b) An arrest for drugs only.
- (c) A BAC of less than .08%.”

c. Defendant. Include the offender’s name and address, date of birth, arrest date, social security number (if available), and driver’s license number.

NOTE: If the defendant is a transient, log on the CHP 735A, Case Log - DUI Cost Recovery Program (refer to Annex D), but DO NOT

forward CHP 735, Incident Response Reimbursement Statement, to FMS.

d. Court. Include the name of the court, court case number, and conviction date (if applicable)."

"h. Total Hours. FormFlow will add all hours and minutes charged to the incident and record them in the appropriate box at the bottom of the Total Hours column.

i. Total Costs. FormFlow will multiply the number of response hours and minutes times the current hourly rate and enter the amount in the appropriate box. The hourly rates are sent out to all Area offices via Comm-Net from FMS."

Recommendation: The command should designate a supervisor as the command's DUI Cost Recovery Coordinator. One of the duties would be to review CHP 735 forms for completeness and use of the current billing rate. In addition, CHP 735 forms should not be signed until complete.

FINDING 3: **The command did not always submit DUI Cost Recovery Program billing packages to FMS in a timely manner.**

Condition: From April 1, 2009 to September 30, 2009, the command prepared 96 CHP 735 forms. The auditor selected a statistically-valid sample of 38 (40 percent) CHP 735 forms for review.

Since the command did not report the date sent to FMS on the CHP 735 forms, the date to FMS listed on the Area Generated DUI Cost Recovery tracking Log (Alternate format to CHP 735A) was used for testing.

In 18 of 33 (55 percent) Section A cases sent to FMS, the CHP 735 forms were not sent within 10 business days of the receipt of the BAC results received date and/or the notification of the conviction under CVC Sections 23152, 23153 or greater offense. Note - The remaining five of the 38 cases were pending a conviction and had not been sent to FMS.

Criteria: HPM 11.1, Administrative Procedures Manual, Chapter 20, DUI Cost Recovery Program, paragraph 4.b.(1) states:

"(1) Completed CHP 735s, Incident Response Reimbursement Statements, based on Section A (refer to Annex B) shall be forwarded to Fiscal Management Section (FMS), Reimbursable Services Unit, within ten business days of one of the following dates:

(a) The date BAC results of .08% or greater are received.

(b) The date BAC results of .04% or greater are received for a commercial driver.”

HPM 11.1, Administrative Procedures Manual, Chapter 20, DUI Cost Recovery Program, paragraph 4.b.(2) states:

“(2) Completed CHP 735s, Incident Response Reimbursement Statements, based on Section B (refer to Annex C) shall be forwarded to FMS, Reimbursable Services Unit, within ten business days of the notification of a conviction of CVC Sections 23152, 23153, or greater offense as a result of one of the following:

(a) In the case of a refusal.

(b) An arrest for drugs only.

(c) A BAC of less than .08%.”

Recommendation The command should designate a supervisor as the command’s DUI Cost Recovery Coordinator. One of the duties would be to ensure CHP 735 forms are submitted within the timelines set by departmental policy.

FINDING 4: **The command did not always properly complete its CHP 415, Daily Field Records.**

Condition: From April 1, 2009 to September 30, 2009, the command prepared 96 CHP 735 forms. The auditor selected a random statistically-valid sample of 38 (40 percent) CHP 735 forms for review.

Based on the review of 38 CHP 735 forms, five (13 percent) CHP 415 forms did not record either the court case number and/or the offender’s name.

This finding was also noted in the 2008 Final Santa Fe Springs Command Audit Report, dated May 29, 2009. It should be noted the current issue was only observed in arrest dates between July 11, 2009 and August 15, 2009, which was after the release of the prior audit report.

Criteria: HPM 11.1, Administrative Procedures Manual, Chapter 20, DUI Cost Recovery Program, paragraph 4.e.(2)(c)1 states:

“1 Offender’s name and court case number shall be included on the CHP 415, Daily Field Record.”

Recommendation: The command should designate a supervisor as the command’s

DUI Cost Recovery Coordinator. One of the duties would be to ensure CHP 415 forms used to support CHP 735 forms contain both the offender name and court case number.

FINDING 5: **The command's DUI Cost Recovery Program log did not include all the data fields required by CHP policy.**

Condition: Based on the review of the command's DUI Cost Recovery Program log used in lieu of the CHP 735A Case Log – DUI Cost Recovery Program, it was determined that the log does not include the following required information:

- 1) The Defendant's address.
- 2) The CVC Section violated.
- 3) The court name, case number, and conviction date (if applicable).
- 4) The blood alcohol concentration test result date.

Criteria: HPM 11.1, Administrative Procedures Manual, Chapter 20, DUI Cost Recovery Program, paragraph 5 states,

"5. CHP 735A, CASE LOG - DUI COST RECOVERY PROGRAM.

a. Log Procedures. CHP 735A, Case Log – DUI Cost Recovery Program, is available to assist Area offices in tracking cases (refer to Annex D). The use of this form is optional. Area offices using this form, or any other case monitoring system (i.e., logging method), shall include the following information:

- (1) Defendant Information. Defendant's full name and street address.
- (2) Violation Information. Incident date and CVC Section violated (e.g., 23152, 23153, or greater offense involving alcohol).
- (3) Court Information. Court name, case number, and conviction date (if applicable).
- (4) Fiscal Management Section Information. Date the CHP 735, Incident Response Reimbursement Statement, was forwarded to FMS.
- (5) Blood Alcohol Concentration Test Results. Results of the supporting BAC test."

Recommendation: The command should use the CHP 735A or add the required data fields to their log used to track DUI Cost Recovery Program cases.

ASSET FORFEITURE (AF) PROGRAM

FINDING 1: **The Commander did not always properly complete its review process of AF related documents.**

Condition: During the audit period of July 1, 2008 to September 30, 2009, the command initiated three AF cases. Based on the review of the three cases initiated by the command, it was observed that the CHP 300D, Asset Forfeiture Checklist for case 2009-550-076F was approved by one of the command's lieutenants, not the commander as required by departmental policy.

Criteria: HPM 81.5, Drug Programs Manual, Chapter 2, Asset Forfeiture Program, Paragraph 3.e. states:

“e. Division and Area commanders are each required to designate an Asset Forfeiture Coordinator (AFC) and an alternate. Commanders and supervisors shall remain closely involved in all asset forfeiture cases, including decisions related to case processing and outcome. Commanders are responsible for ensuring AFCs are managing the AFP in compliance with departmental policy. This shall be accomplished by reviewing and approving each asset forfeiture case file initiated by their command and ensuring annual audits of the AFP are conducted by management personnel.”

Recommendation: The commander should ensure the proper administration of AF cases by reviewing all case files prior to submission to Division.

FINDING 2: **The command did not complete required CHP forms and follow CHP policy when AF cases were turned over to an allied agency.**

Condition: The file for case 2009-550-076F (\$130,000 currency seizure) did not contain a CHP 308, Asset Forfeiture Tally, and a CHP 36, Evidence Property Receipt, from the Orange County Regional Narcotics Suppression Program. This fact was also documented on the CHP 300D, Asset Forfeiture Checklist, where the “no” option was checked next to these required forms.

In addition, CHP procedures for currency seizures over \$25,000 were not followed – specifically, the officer did not immediately contact a supervisor to respond to the scene before the currency was removed or seized, the currency was not photographed in place, transported to a secure location for processing by two uniformed personnel, packaged in a container, photographed again as it is packaged, and sealed with CHP evidence tape.

Criteria: HPM 81.5, Drug Programs Manual, Chapter 2, Asset Forfeiture Program, paragraph 11.b. and 11.d. states:

“b. Supervisory Response. When assets subject to seizure under state or federal asset forfeiture laws have been identified by departmental personnel, a departmental uniformed supervisor shall be immediately notified and shall respond to the scene, preferably before assets are seized or removed.

(1) The supervisor shall attempt to contact the appropriate allied agency/NTF in accordance with local MOU.

(2) It is the responsibility of the supervisor to use sound judgment in authorizing asset seizures and to ensure compliance with asset forfeiture statutes and departmental policy (e.g., currency count procedures, property/evidence photographed where located, receipts for property/evidence turned over to an allied agency/NTF).”

“d. Currency Seizures. The currency processing procedures outlined in paragraph 14 of this chapter shall be followed when CHP personnel locate and take initial possession of currency. Prior to turning over possession of currency to the allied agency/NTF, a signed receipt shall be obtained from the allied agency/NTF member taking possession. A signed CHP 308, Asset Forfeiture Financial Tally, (Annex 2-L-1), or equivalent may be used for this purpose.”

HPM 81.5, Drug Programs Manual, Chapter 2, Asset Forfeiture Program, paragraph 14.b.(1), 14.d., and 14.b.(2) states:

“b. Processing Seized Currency.

(1) Officer’s Responsibilities.

(a) The officer who finds currency and believes it qualifies for seizure shall immediately contact a supervisor who shall respond to the scene before the currency is removed or seized. The supervisor shall be present throughout the entire seizure.

(b) The currency should be photographed in place prior to seizure and shall be processed for evidentiary value (e.g., it may be necessary to maintain the actual currency as evidence where a drug-detection canine has indicated that currency has been exposed to a controlled substance and/or retain packaging materials and wrappers).”

“(d) Seizures Over \$25,000. The currency shall be transported to a secure location (e.g., Area or allied agency/NTF office) and two uniformed personnel will process the currency using the following procedures.

- 1 The currency shall be packaged in a container (e.g., a manila envelope, evidence bag).
- 2 Currency found in different locations shall be packaged separately with the locations noted on the individual containers.
- 3 The currency should be photographed again as it is packaged and the total number of sealed containers shall be photographed.
- 4 Once the currency is packaged, the container(s) shall be sealed with departmental evidence tape.
- 5 The container(s) shall be individually numbered. The seizing officer and one other officer, preferably the on-scene supervisor, shall initial and date the seal in such a way that part of the writing is on the seal and part of the writing is on the container.
- 6 A receipt (e.g., a CHP 36) shall be given to the person(s) from whom the currency was taken or the person in possession of the premises/vehicle where the seizure occurred. The receipt should indicate that a large unknown amount of currency was seized and will be counted at a later time. The total number of containers shall be noted on the receipt.
- 7 Individuals who claim no interest or ownership in the seized asset should be requested to sign a CHP 304; however, these individuals are not required to sign this form.
- 8 If a money counting institution is not immediately available, the currency shall be retained by the Department and stored in accordance with HPM 70.1, Evidence Manual, until it can be counted by a money counting institution.
- 9 If the commander determines the Area facility is not adequate to protect the currency, other options should be explored. This may include purchasing a safe for the Area facility or storing the currency at an adjacent Area/Division office which has a safe.
- 10 At the earliest possible opportunity, the currency shall be taken to a financial institution or other money counting facility for an accurate determination of the total seizure. If an allied agency/NTF is involved in the seizure, a

representative from the allied agency/NTF should be present at the count.”

“(2) Area Commander’s Responsibility. It is the Area commander’s responsibility to assure that seized currency is not released from departmental control until a true and accurate count of the currency is assessed and a signed receipt has been obtained. Any deviation from this policy shall be coordinated with the FSS commander prior to release of uncounted seized currency.”

Recommendation: The command should ensure all officers are trained and follow CHP AF procedures.

FINDING 3: **The command did not always prepare and submit required AF reports and forms in a timely manner.**

Condition: During the audit period of July 1, 2008 to September 30, 2009, the command initiated three AF cases. Based on the review of the three case files and AF status report documents, the following issues were observed:

- 1) Only two of 16 (13 percent) CHP 300A – Area Asset Forfeiture Summary Reports were completed by the 10th of the month.
- 2) One case file (2009-550-076F) was not forwarded to Division within 20 days of the seizure.

Regarding the late submitted case, the Area Asset Forfeiture Coordinator (AFC) became aware of this case when contacted by the Southern Division AFC. The Division AFC was made aware of this case when contacted by the Fiscal Support Section (FSS) to submit the paperwork for this case. FSS become aware of this case when contacted by the US Department of Justice to inquire why the CHP had not filed a DAG-71 to claim its portion of the seizure. It appears the CHP was made aware of this case on or about May 11, 2009, when the seizure actually occurred on April 6, 2009.

Criteria: HPM 81.5, Drug Programs Manual, Chapter 2, Asset Forfeiture Program, paragraph 17.b.(1)(b) states:

“(b) The copy of the CHP 300A shall be forwarded to the Division AFC on a monthly basis. The reports are to be received by the Division AFC no later than the 10th day of the month following the end of the reporting period.”

HPM 81.5, Drug Programs Manual, Chapter 2, Asset Forfeiture Program, paragraph 9.b.(7) states:

“(7) Establish a case file for each asset forfeiture arrest/incident. Forward all reports and related documents to FSS through the Division AFC within 20 days from the date of the seizure/incident.

The Department's assigned asset forfeiture case number shall be printed on the face page of all documents in the top right corner."

Recommendation: The command should prepare and submit required AF reports and forms in a timely manner.

FINDING 4: **The command did not always properly handle and safeguard currency seized during an AF case.**

Condition: During the audit period of July 1, 2008 to September 30, 2009, the command initiated three AF cases. In two of these cases, the CHP 308, Asset Forfeiture Financial Tally Forms, were not signed by the two employees who counted the seized currency along with the command and Division employees within the chain of possession. It was further noted that CHP 36, Evidence/Property Receipt/Report, forms were prepared for these two currency seizures; however, the CHP 36 forms lacked the evidence officer's signature which serves as the initial receipt of evidence/property beginning the chain of possession.

Criteria: HPM 81.5, Drug Programs Manual, Chapter 2, Asset Forfeiture Program, paragraph 14.b.(1)(c) 1 and 2 states:

"1 The finding officer, with the assistance of a second uniformed member (preferably a supervisor), shall count the currency upon taking possession. The count shall be conducted in accordance with procedures contained in HPM 70.1, Evidence Manual.

2 Uniformed personnel who conduct the count shall document the denominations on a CHP 36, Evidence/Property Receipt/Report, or CHP 308, Asset Forfeiture Financial Tally, (or similar allied agency/NTF currency tally sheet). If currency is found in different locations, the locations and the amounts of currency found shall be documented on separate tally sheets."

HPM Section 70.1, Evidence Manual, Chapter 5, Packaging of Evidence for Booking, paragraph 2.i. states:

"i. Money. Money shall be counted by two employees, one of whom should be a supervisor. Both will initial the evidence form. Additionally, the money that was counted should be documented on a CHP 308, Asset Forfeiture Tally Sheet. (Annex 5-B-1). Money or valuables may be stored at a location other than the Area office if the commander determines the Area facility is not adequate to protect the items. To prepare for such possibilities, the commander may make prior arrangements with banks or allied agencies with safes. No expenditure of funds for storage of evidence or property will be made until required by a specific incident. Refer to Annex 5-C-1 for off-site

storage payment procedure. If the Area has a safe, cash and other valuables may be stored in the safe. When booking large sums of money, not qualifying for asset forfeiture, into evidence, please contact the Evidence Coordinator at the Internal Affairs section for guidance.”

HPM 70.1, Evidence Manual, Chapter 6, Forms- Completion and Management, paragraph 5.e. states:

“e. Record of Property and Evidence for Court and Department Use. The CHP 36 is used internally for tracking, accountability, chain of possession, and audit purposes. The back of the cardstock copy contains the chain of custody record for trial. **The chain of possession shall be recorded for each movement and transfer of the evidence.** The Evidence Officer will place his or her own name on the front side of the CHP 36 form in the space provided. This will serve as the initial receipt of evidence/property by the Evidence Officer and it will begin the chain of possession. Every time thereafter, when evidence is moved from one location to another (i.e. from the area office to the laboratory), stored at another location, held by a court (after a movement), checked out, or returned for any reason, the chain of possession shall be completed on the reverse side of the cardstock copy of the CHP 36 (Annex 6-D-1). If the chain of possession record is needed for court, a certified copy may be obtained with a subpoena to the Custodian of Records. Whenever evidence is removed from the Area (to court, lab, etc.), the cardstock copy of the CHP 36 should be placed in a suspense file. A copy of the CHP 36 may be sent with the evidence. The suspense file should be checked on a regular basis, at a minimum, once a quarter.”

Recommendation: The command should ensure all individuals who handle and participate in currency counts sign the CHP 308, Asset Forfeiture Tally, and the evidence officer(s) who safeguard currency sign the CHP 36, Evidence/Property Receipt/Report, upon initial receipt of the currency.

FINDING 5: **The command’s AFC did not receive annual training.**

Condition: The command’s AFC has not received training from the Division AFC on an annual basis. The command’s AFC received training from the CHP office of primary interest program’s AF in April 2009.

Criteria: Government Code Section 13403(a)(3), (4), and (6) says the elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following: A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures; an established system of practices to be followed in performance of duties and functions in each of the state agencies; and an effective system of internal review.

HPM 81.5, Drug Programs Manual, Chapter 2, Asset Forfeiture Program, paragraph 21.a., states:

“21. ASSET FORFEITURE TRAINING.

a. In order to ensure uniformity throughout the Department, Division AFCs shall receive annual training from the departmental AFC coordinator in FSS. The training will encompass asset forfeiture laws, pending state and/or federal legislation relating to asset forfeiture, departmental policies, and procedures. Division AFCs will in turn provide annual training to Area AFCs, uniformed employees assigned to NTFs, canine handlers, and affected non-uniformed employees involved with asset forfeiture. The training shall be of sufficient duration to ensure full understanding of legal/policy requirements. In addition, Division AFCs should attend Division Area Commanders' Conferences as necessary to provide commanders with an overview of the Department's AFP and any related new legislation or updates to departmental policy.”

Recommendations: The command should comply with the departmental policy as it relates to AF training.

CONCLUSION

Based on the review of the command's operation, this audit revealed the command has adequate operations. However, some issues were observed. This report presents suggestions for management to improve on some of its operations. In doing so, operations would be strengthened and the command would operate in accordance with departmental policies and procedures.

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ANNEX

A

Memorandum

Date: June 18, 2010

To: Office of Inspections, Audits Unit

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Southern Division

File No.: 501.10377.16019

Subject: DRAFT 2009 COMMAND AUDIT REPORT - AUDIT RESPONSE
SANTA FE SPRINGS AREA

Attached is the response to the Santa Fe Springs command evidence audit report for Driving Under the Influence Cost Recovery and Asset Forfeiture Programs. Southern Division concurs with the findings from Captain Minor and is satisfied with the response.

If there are any questions regarding this information, please contact Captain Daniel Minor at (562) 868-0503.


W. A. STANLEY, Chief

Attachments:

cc: Santa Fe Springs Area

ANNEX

B

M e m o r a n d u m

Date: June 15, 2010

To: Southern Division

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Santa Fe Springs Area

File No.: 550.13318.12507

Subject: DRAFT 2009 COMMAND AUDIT REPORT - AREA RESPONSE

The purpose of this memorandum is to respond to the Draft 2009 Command Audit Report of the Santa Fe Springs Area dated May 27, 2010. This memorandum will respond to each Finding/Recommendation as they appear in the Audit Report.

DRIVING UNDER THE INFLUENCE (DUI) COST RECOVERY PROGRAM**FINDINGS 1 & 3 – Agree**

Area has designated the administrative sergeant as the DUI Cost Recovery Coordinator to reconcile DUI arrests with CHP 735 forms (Response-Reimbursement Statement) to ensure that all eligible cases are billed and submitted within the timelines set by departmental policy.

FINDINGS 2 & 4 - Agree

Field supervisors are required to review and ensure officers are completing CHP 735 forms with the necessary cost recovery information using the current billing rate and that the CHP 415 forms (Dailey Field Record) used to support CHP 735 forms contain both the offender's name and court case number. Upon supervisory review and approval, all CHP 735 forms and supporting CHP 415 forms shall be forwarded to an Area manager for final approval and signature. This policy has been briefed to all Area personnel and entered into the Area's Standard Operating Procedures.

FINDING 5 – Agree

Effective immediately, Area has added fields to its CHP 735 tracking log to include:

- The defendant's address.
- The California Vehicle Code (CVC) section violated.
- The court name, case number, and conviction date (if applicable).
- The blood alcohol concentration test result date.

Safety, Service, and Security

Southern Division
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ASSET FORFEITURE (AF) PROGRAM

FINDING 1 – Agree

The Area Asset Forfeiture Coordinator will ensure the proper administration of AF cases by reviewing all case files prior submission to Division.

FINDING 2 – Agree

Area will allocate time during Area training days to cover AF policies and procedures with officers and sergeants on an annual basis. This training will be documented on the Employee Training Records System (ETRS). Additionally, the Area's staff meetings will be utilized to train all supervisors and managers of their roles and responsibilities relating to AF cases.

FINDING 3 – Agree

The Area AF coordinator shall adhere to the reporting deadlines set forth by HPM 81.5, Drug Programs Manual, Chapter 2. The Area will conduct quarterly self audits of the AF program to ensure compliance with reporting deadlines.

FINDING 4 – Agree

Area will provide training to all supervisors and officers in the policies and procedures governing the accountability for the proper handling and safeguarding of currency in AF cases. This training will be provided annually during the AF training and will be documented on the Employee Training Records System (ETRS).

FINDING 5 – Agree

Area will identify upcoming and available departmental and/or approved Los Angeles County District Attorney AF training and ensure the Area's Asset Forfeiture Coordinator and alternate attend as required by departmental policy.

I am confident the corrective actions outlined above will result in improved efficiency and compliance with the audit action items.


D. J. MINOR, Captain
Commander